

## Region 1

### Hot Issues

#### **City of Portsmouth, NH requests ORD/Region 1 conduct additional testing for PFAS compounds**

- Perfluorinated compounds (PFAS, including PFOA and PFOS) were identified in drinking water in 2014 at the Pease International Tradeport, where over 9,000 people currently work and two daycare centers operate. State blood serum tests of over 1,700 adults/children show levels of certain PFAS higher than those of the general U.S. population. EPA issued an Administrative Order under the Safe Drinking Water Act, and Air Force is currently constructing groundwater treatment systems.
- The City of Portsmouth took one public supply well offline and is currently treating two other supply wells with PFOA/PFOS below EPA's lifetime health advisory of 70 ppt.
- A citizens group wants more information on additional unregulated PFAS compounds, including in tap water.
- Region 1 will be working with ORD on this topic next week.

### Upcoming Public Events

None.

### Upcoming Major Decisions

#### **Port and Community Engagement at the Port of Providence**

- On Dec 15<sup>th</sup> Region 1 will meet with representatives from the Port of Providence and the University of Rhode Island's Department of Marine Affairs to discuss opportunities for collaboration and engagement between port businesses and near-port community stakeholders.
- The meetings are part of a technical assistance project between EPA and the Environmental Justice League of Rhode Island in an effort to address air quality and other environmental concerns around the Port of Providence.

### Highlights from last week

#### **Quarterly Meeting of New England States/EPA Environmental Enforcement and Compliance Committee**

- On December 6<sup>th</sup>, Region 1 hosted a meeting of EPA and state enforcement and compliance assistance personnel at the Region's laboratory facility in Chelmsford, MA.
- Topics discussed included best practices related to early notification of violations to facilities, applicability of EPCRA and CAA 112r to storage of hazardous chemicals in rail cars, and a state presentation on criminal enforcement.
- The committee will meet quarterly to discuss, plan and coordinate enforcement and compliance assistance activities.

#### **UST Six State Meeting**

- On December 8<sup>th</sup>, Region 1 met with our UST/LUST/State Fund state partners at NEIWPCC.
- The agenda included state updates, VT and ME case studies, status of state regulation updates,

planning for the Regional review by OUST, and status of State Fund Soundness reviews.

### **Southeast New England Program (SNEP) Steering Committee Meeting**

- On Dec 13<sup>th</sup>, Region 1 hosted a SNEP Steering Committee meeting at our regional office.
- The meeting focused on EPA and partner updates and on finalizing the program framework, and introduced Restore America's Estuaries (RAE) as EPA's grantee responsible for issuing and managing the SNEP sub award program.

### **Regional Tribal Operations Committee**

- On Dec 13<sup>th</sup>, a Regional Tribal Operations Committee call was held with the New England tribes.
- Key topics included a discussion of a University of Maine coastal acidification monitoring project and rulemaking efforts on the definition of Waters of the United States.

### **Cyanobacteria-Monitoring and Treating Drinking Water**

- On Dec 14<sup>th</sup>, Region 1 hosted “Cyanobacteria-Monitoring and Treating Drinking Water: A Workshop for Water Suppliers” at the UMass Medical Center, Worcester.
- Featured speakers include from Region 1, ORD-Narragansett, and EPA-Office of Water.
- Topics included recognition, monitoring and treatment needed to address cyanobacteria and cyanotoxin threats to water supplies in New England.

## Region 2

### Hot Issues:

**Emergency Response in Puerto Rico and the U.S. Virgin Islands:** Despite continued challenges presented by the pervasive lack of electrical power, Region 2 continues to advance its mission assignments. Regional staff are working closely with FEMA and the U.S. Army Corps of Engineers to extend their engagement in Puerto Rico to assist community drinking water systems that are not operated by the main utility (referred to as “non-PRASA” systems), as well as directing attention to stormwater systems. In addition, EPA has provided leadership in working through sensitivities with vegetative debris management, particularly in the USVI, where the question of whether or not the Corps should do air curtain incineration to reduce the volume of debris has become a matter of considerable public controversy. EPA remains on standby to provide air monitoring in the event that PR and USVI authorize the Corps to carry out the air curtain incineration.

**Response to Congressional Inquiries re Hurricane Response:** Region 2 is providing answers to OCIR to address Questions for the Record submitted to EPA as a follow-up to Regional Administrator Lopez’s testimony before the House Energy and Commerce Committee on November 14.

**Rensselaer County, NY Legislature Enacts Legislation Limiting Surface Water Discharge of 1,4 Dioxane at Dewey Loeffel Superfund Site:** On December 12, 2017, the Rensselaer County, NY Legislature passed a county law limiting the discharge of 1,4-dioxane from Superfund site properties that are owned by the County to a maximum level 0.35 parts per billion (ppb). This law is intended to apply to the ongoing discharge of 1,4-dioxane from the treatment plant at the Dewey Loeffel Landfill Superfund site, a former hazardous waste disposal site in Rensselaer County. The most recent 1,4-dioxane level in the treated effluent discharged from the site to an adjacent stream was 0.36 ppb. EPA had recently expressed and discussed concerns with this new law, based on technical practicability and legal grounds, with the county legislators, but the legislature disagreed with EPA’s views. Further updates will be provided on this issue.

**Plans for Final 2010 SO<sub>2</sub> Area Designations in New York and Puerto Rico:** In keeping with the Agency’s plan for meeting the December 31, 2017 consent decree deadline for designating attainment and non-attainment areas for the 2010 SO<sub>2</sub> ambient air quality standard, Region 2 is planning to move forward (in the absence of an extension agreement from the Sierra Club) with the following area designations in New York State and Puerto Rico:

- Monroe County, NY will be designated “Unclassifiable”, with the expectation that this designation will be subsequently withdrawn when the RED facility’s conversion from coal to natural gas is complete, and the area will then be designated “attainment/ unclassifiable.”
- San Juan and Guayama- Salinas Areas in Puerto Rico will be designated “Nonattainment.”

**Potential Restart of Refinery on St. Croix, U.S. Virgin Islands:** On December 13, 2017, Region 2 participated in a meeting between Bill Wehrum (Assistant Administrator for the Office of Air and Radiation) and other HQ staff and Limetree Bay Terminals (LBT). LBT is seeking to restart a portion of the former Hovensa refinery on St. Croix, construct an offshore single-point mooring buoy to accommodate increased ship traffic, produce renewable biodiesel fuel, and expand the existing oil terminal facility at the facility. Depending on which units LBT would use, and other details, one or more of the projects might trigger Clean Air Act permitting requirements. LBT is seeking certain expedited decisions by EPA that would enable the company to begin these projects quickly. Region 2 is working to promote a dialogue that offers a clear view of EPA and local permitting requirements and public process. Our collective goal is to seek a balance of environmental considerations with the opportunity for growing jobs on the island.

**Investors Challenge Constitutionality of Puerto Rico Oversight Legislation:** On December 6, 2017, the Department of Justice (DOJ) filed a brief in federal district court in Puerto Rico, defending the constitutionality of the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 (PROMESA), 48 U.S.C. §§ 2101–2241. A group of hedge funds holding outstanding bonds issued by the Commonwealth, along with a labor union of PREPA employees, contend that PROMESA’s statutory scheme governing the appointment of members of the Financial Oversight and Management Board (the creation of which was authorized by PROMESA) violates the Appointments Clause of the U.S. Constitution and encroaches on the President’s executive authority in violation of the separation of powers. Accordingly, they are asking that the court dismiss the debt restructuring proceeding initiated by the Oversight Board on behalf of the Commonwealth of Puerto Rico. In its response brief, DOJ argues that the scheme for appointment of Oversight Board members under PROMESA is not subject to the Appointments Clause because the Oversight Board is a component of the territorial government (not the U.S. government), and DOJ asserts that the appointments scheme does not violate separation of powers principles.

**DRBC Hydraulic Fracturing Draft Regulations:** CWD participated in a call with HQ to determine a process for developing EPA comments on the draft Hydraulic Fracturing Regulations published by the Delaware River Basin Commission (DRBC). We agreed that EPA’s review of the regulations would focus on the following:

- Identifying clear contradictions with federal statutes or regulations
- Identifying aspects of the proposed rules and other materials that create ambiguities/uncertainties with federal statutes or regulations
- Identifying factually incorrect or unsupported statements

We agreed to conduct a preliminary review of DRBC’s proposed rules and other materials, focusing on how we can create efficiencies in our review process and avoid redundant technical and legal reviews among regions and program offices. After our next call, scheduled for December 18, the group will identify program office leads for particular topics and begin an in-depth review of the materials.

#### **Past Week Events:**

**Camden, NJ:** On December 12, the Camden County Municipal Utilities Authority held a grand opening ceremony for Phase 2 of Phoenix Park, which provides access to the water to the community of the Waterfront South neighborhood of Camden for the first time in decades. The six-acre park, built on the lot of an abandoned factory was funded using county open space grants and utilizing the New Jersey Environmental Infrastructure Trust and SRF funding. Phoenix Park was featured in EPA’s [Sustainability in Action video](#), and EPA Region 2 participated in the groundbreaking ceremony for the park in 2015.

#### **Upcoming:**

**Lodging of Cost Recovery Consent Decree Relating to Onondaga Lake:** On or about December 14, 2017, we expect the Department of Justice to lodge a consent decree in district court in the Northern District of New York, resolving EPA’s cost recovery case against Honeywell International, Inc. for past costs the Agency incurred in connection with the Onondaga Lake Superfund Site in Onondaga County, NY. Under the settlement, Honeywell is obligated to reimburse EPA \$7.3 million, and the United States, on behalf of the Air Force and General Services Administration, will pay Honeywell \$6.25 million in settlement of its claims in contribution against the United States for Honeywell’s response costs and natural resource damages.

**Administrative Orders to Drinking Water Systems in New York:** Region 2 is issuing nine administrative Orders to drinking water systems in Orange County and Clinton County, New York for violating monitoring requirements of the Revised Total Coliform Rule, a Safe Drinking Water Act rule for which New York State

Department of Health (NYSDOH) has not yet obtained primary enforcement authority. Region 2 worked with NYSDOH to develop a strategy to prioritize oversight and enforcement follow-up based on violations reported to the national Safe Drinking Water Information System (SDWIS).

**New York and New Jersey Request Assistance with Air Quality Modeling for Perfluorinated Compounds:** In the past few years, some of the northeastern states, including New Jersey, have been conducting deposition modeling using AERMOD to determine the spatial distribution of two chemicals, Perfluorooctanoic Acid (PFOA) and Polyfluoroalkyl Substances (PFAS), in ground water sources due to air dispersion. PFOA/PFAS have been found in groundwater sources where there is no direct water flow in the watershed from emission sources. Therefore, there is reason to believe that there is an air contribution as well. PFOA/PFAS air emissions are complex; for example, they can partition into existing particles in the atmosphere and get deposited based on meteorology, particles size, particle density, etc. Modeling of these chemicals is subject to significant uncertainties since the particle size distribution and density, two of the important inputs in AERMOD to model deposition, are not known. New York and New Jersey have requested assistance from EPA in trying to better determine these parameters. Region 2's Air Program is coordinating internally as well as with Region 1 and the Office of Research and Development to better understand what is known with respect to the particle properties and how we can assist this modeling effort by the states.

## Region 3

### Hot Issues

#### **Region 3 Round 3 SO<sub>2</sub> Designations**

Pursuant to a March 2, 2015 court-ordered schedule, EPA must complete what is known as Round 3 of the SO<sub>2</sub> designations by December 31, 2017. At this time, the Administrator is planning to sign the notice of final designations on December 20, 2017. During Round 3 of SO<sub>2</sub> designations, EPA is making a determination as to whether a geographic area (usually a county) is meeting the 1-hour 2010 SO<sub>2</sub> National Ambient Air Quality Standard (NAAQS). Areas designated in Round 3 are generally areas where states have not installed and begun operating a new SO<sub>2</sub> monitoring network per EPA's SO<sub>2</sub> Data Requirements Rule (DRR). These areas with new monitors will be evaluated by December 31, 2020 (referred to as Round 4). All remaining areas in Region III, except for monitored areas in Pennsylvania, West Virginia (Mineral County only), Maryland, and Virginia, will be designated by December 31, 2017. EPA will not be designating any Round 3 areas in Region 3 as Nonattainment.

**Office of Preparedness and Response Participates in State of the Union Planning Meeting** The planning and coordination for the State of this Union National Special Security Event (NSSE) has begun. On December 11, 2017, an On-Scene Coordinator (OSC) participated in kickoff planning meeting conducted by FEMA's Office of National Capital Region Coordination (ONCRC), FEMA Region III, and the U.S. Secret Service. The State of the Union presentation by President Trump to the U.S. Congress will occur on January 30, 2018. The OSC will coordinate and meet with both the Consequence Management Subcommittee chaired by FEMA, and the Fire Life Safety and HazMat (FLASH) subcommittee chaired by the D.C. Homeland Security and Emergency Management Agency.

#### **Region 3 Hosts Drinking Water Regulation Training in West Virginia**

The Lead and Copper Rule (LCR) requires public water systems to optimize their corrosion control treatment to prevent lead and copper from leaching into the drinking water. As a follow-up to LCR Corrosion Control Training, which was conducted last May, a December 5 training, in West Virginia, focused on assisting states with designating optimal water quality parameters to ensure that the water systems they regulate provide optimized corrosion control treatment. Day two of the training focused on compliance with the Stage 2 Disinfection By-Product Rule and issues arising from simultaneous compliance with drinking water regulations. Representatives West Virginia, DC, Maryland, Pennsylvania, and Delaware participated in the training. The course instructors were comprised of Region 3 staff, HQ staff, and a contractor.

### Upcoming Public Events

#### **Regional Administrator to Participate in Chesapeake Bay Program Principals' Staff Committee meeting**

EPA Mid-Atlantic Regional Administrator Cosmo Servidio will represent EPA and the other federal partners as a member of the Principals' Staff Committee meeting December 19-20, 2017 in Cambridge, Md. CBP Director Nick DiPasquale and Deputy Director Jim Edward and other EPA staff will also participate in the meeting. The purpose of the meeting will be to focus on helping PSC members build an understanding and answering questions on key Midpoint Assessment and Phase III WIP issues, as well as seek collective decisions on foundational Midpoint Assessment issues including:

- 1) Adoption of the Phase 6 suite of modeling tools for finalizing the draft Phase III planning targets and for management application in the Phase III WIPs and two-year milestones through 2025
- 2) Approval of the proposed Bay's assimilative capacity
- 3) Approval of the process for the 4-month Partnership review of the draft Phase III WIP planning

targets, including how special cases are addressed

4) Approval to base Phase III WIP development on 2025 current zoning conditions

5) Approval of the draft Phase III WIP planning targets as a starting point of the 4-month Partnership review period

6) Develop a Partnership implementation plan to address Conowingo infill by 2025

7) Adopt a dual approach to factor climate change into the Phase III WIPs

#### **RA Servidio to Meet with Congressman Fitzpatrick**

RA Servidio is meeting with his local Congressman, Mike Fitzpatrick, in his district office as an introductory meeting.

#### **Past Events**

##### **RA Servidio Met with Philadelphia Chamber of Commerce**

RA Servidio met with members of the Philadelphia Chamber of Commerce on Tuesday, December 12, 2017. Approximately 50 members attended and heard about the current priorities of the Agency, including cooperative federalism. The Clean Power Plan and Renewable Fuel Standard were also topics of discussion. This meeting was closed to the press.

##### **RA Servidio Met with Members of Congress and Senate**

On Wednesday, December 13, 2017 RA Servidio travelled to Washington D.C. and met with Congressman Don Beyer (VA), Congressman Andy Harris (MD), Senator Ben Cardin (MD), and Senator Tom Carper (DE). The RA also had an introductory meeting with Director Tommy Wells of the DC Department of the Energy and Environment.

## Region 4

### Hot Issues

#### ***B.F. Goodrich (Calvert City, Kentucky)***

**Key Message:** On Tuesday, December 12, 2017, Region 4 and staff from Headquarters met with representatives from the three Potentially Responsible Parties (PRPs), Westlake Vinyl, PolyOne, and Goodrich Corporation, to listen to comments on the proposed plan. Following the meeting, the Region anticipates the PRPs will formally submit comments during the public comment period.

### Highlights from Last Week

#### ***Florida's 303(d) List***

**Key Message:** Region 4 plans to partially approve/partially disapprove the state of Florida's 303(d) list with 51 deferred listings and 20 over listings. The state does not object to this proposed action.

### Upcoming Travel for the RA

None



## Region 5

### **HOT ISSUES:**

#### **Continued Focus on Wolverine World Wide Tannery Site in Rockford, Michigan**

Key Message: On December 13, 2017, Acting Regional Administrator Robert Kaplan and Water Division Director Chris Korleski held a productive meeting with concerned citizens in Rockford, Michigan.

EPA representatives met with four residents and discussed historical aspects of the facility, health concerns, progress to date, and a path forward. Residents were appreciative of the visit and opportunity to meet with Region 5 senior management. A tour of the site followed the meeting.

On December 5, 2017, Administrator Pruitt received a letter signed by 14 of Michigan's congressional delegation urging EPA's continued engagement in assisting the state with addressing the public health concerns stemming from PFOA/PFOS exposures. PFOA/PFOS have been detected in a growing number of sites across the state. Region 5 as given the lead to respond and, given the national focus on these compounds, is coordinating with headquarters on language.

On December 13, 2017, Michigan Department of Environmental Quality Commissioner Grether sent a letter to Acting RA Kaplan regarding EPA's involvement in responding to the ongoing PFAS contamination across the state. Specifically, MDEQ is appreciative of region's support so far and highlighted 11 areas that the state believes EPA's involvement would be appropriate moving forward.

#### **High Lead Levels Found at the Federated Metals Site in Hammond and Whiting, Indiana**

Key Message: Preliminary results received on December 7, 2017, indicate that 25 of the 27 properties sampled exceed the Removal Management Level (RML) for lead of 400 ppm for residential surface soils.

On December 8, 2017 residents and owners with lead concentrations above the RML were contacted by phone with their preliminary results. Residents with children under the age of six were prioritized during outreach and methods to reduce exposure was discussed. Letters notifying the residents of concentrations on their property will be sent out as soon as validated data is received.

In November 2017 EPA sampled 27 occupied residential properties near the former Federated Metals Landfill Site in Hammond and Whiting, Indiana. The homes sampled were within an initial area of concern that had previously been defined by sampling publically owned properties and right-of-ways in the vicinity of the former site. Forensic analysis additionally correlated off-site lead contamination to a Resource Conservation and Recovery Act regulated-landfill that exists at the former Federated Metals site, previously owned by ASARCO, the bankrupt Potentially Responsible Party. The highest concentration of lead found during the November sampling was 2,760 ppm.

Hammond and Whiting officials have been notified of EPA's findings. EPA will work with the Agency for Toxic Substances and Disease Registry (ATSDR) and the state of Indiana in evaluating the lead data, determining the need for a health consultation with residents, and communicating results to the residents and answering health questions. ATSDR is currently evaluating blood lead data for the area. EPA will continue to work with officials from Hammond and Whiting as the site progresses.

## **Wisconsin 2015 Ozone Designation**

Key Message: Wisconsin Department of Natural Resources has raised concerns regarding any ozone nonattainment proposals.

In recent discussions between WDNR Commissioner Meyer and Acting RA Kaplan, the state has given EPA a heads up that there will be a significant, adverse, high level reaction to any ozone nonattainment proposal that includes all of Racine County as a proposed nonattainment area in our 120 day letters. These letters are now expected to be signed and sent early next week. Our current draft includes all of Racine as nonattainment (despite the clean monitor) since it is part of the Milwaukee Census-defined metro area, contains emissions sources that contribute to violating monitors in Milwaukee and downwind, and has been a part of the Milwaukee ozone nonattainment area for decades. The state has concerns over the potential impacts of a pending nonattainment designation on the proposed Foxconn plant in Racine.

### **UPCOMING EVENTS:**

NONE

### **UPCOMING MAJOR DECISIONS:**

NONE

### **PAST WEEK ACCOMPLISHMENTS/HIGHLIGHTS:**

#### **Two Unilateral Administrative Orders Issued for the USS Lead Site in East Chicago, Indiana**

Key Message: On December 14, 2017, EPA issued two unilateral administrative orders (UAOs) to several potentially responsible parties (PRPs) to conduct cleanup work in residential areas of the USS Lead site in East Chicago, Indiana.

Through the UAOs, the PRPs were ordered to conduct soil cleanups in Zone 2 of the site and to conduct indoor dust sampling and, if needed, indoor cleanings in remediated properties in Zones 2 and 3.

The 2014 Consent Decree did not address soil cleanups in Zone 2, indoor dust sampling in Zones 2 and 3 nor the potentially necessary indoor cleanups. EPA and the PRPs agreed in the 2017 Administrative Settlement Agreement on Consent (ASAO) for the PRPs to provide funding to EPA to conduct soil cleanup work at priority properties in Zone 2, and the indoor dust sampling and cleanups in Zones 2 and 3. EPA has addressed 126 properties in Zone 2, and an estimated 320-350 properties remain. The ASAO expires in early 2018, therefore, EPA issued the UAOs for the PRPs to complete the remaining Zone 2 soil cleanups, and conduct associated indoor dust sampling and needed indoor cleanups at Zones 2 and 3 remediated properties.

## Region 6

### UPCOMING HOT ISSUES AND IMPORTANT DEADLINES

December 14, 2017

#### **Vertac Superfund Site, Jacksonville Arkansas**

EPA met with managers and staff of the Arkansas Department of Environmental Quality regarding reaching agreement on an environmental sampling protocol for this former herbicide manufacturing plant. Hercules, one of the responsible parties for the site, alarmed the Mayor of Jacksonville by portraying a draft EPA and ADEQ dioxin sampling plan as unscientific, unneeded, and a frightening threat to the community. EPA and ADEQ agreed to align State and EPA technical plans in a face to face meeting on December 18 and then to reach joint agreement the Mayor. Following that, EPA, the State, and the Mayor will respond to the responsible party.

#### **Bird Creek, Osage County, Oklahoma**

EPA continues to work on the response to comments from the public comment period and the hearing held on October 11, 2017 related to Proposed Administrative Orders (SDWA) sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc., so that final Orders may be completed by early January 2018. EPA successfully collected additional monthly in-stream monitoring data the week of December 4th. Warren American and Jireh Resources attempted to pump out a hotspot at monitoring station 6. Both EPA and the two operators collected samples during the pump out. This appeared to be unsuccessful in demonstrating that the stream contamination was a "one time event", but no specific analytical information is available at this time.

#### **Espanola's Wastewater Treatment Plant Espanola, New Mexico**

The week of December 18, 2017, representatives from EPA Region 6's Municipal & Industrial Section of the Water Enforcement Branch are conducting an inspection at the City of Espanola's Wastewater Treatment Plant. The inspection's focus is to evaluate the wastewater utility's capacity, management, operations, and maintenance to compliance with the City's NPDES permit. The City of Espanola has had issues with deficient reporting. It should be noted the facility is non-tribal, but their outfalls discharge on tribal lands. Personnel from the Pueblo of Santa Clara Environmental Affairs Department, and New Mexico Environment Department were contacted regarding this upcoming inspection.

#### **Bandera Road Groundwater Plume, Leon Valley, Texas**

On December 19, 2017, EPA plans to conduct a site inspection and interagency update meeting as part of regular site activity. The interagency update meeting is scheduled for 2 pm at the Edwards Aquifer Authority office in San Antonio and will include representatives from the Texas Commission on Environmental Quality and other local agencies. EPA plans to have a follow-up community meeting with the Bandera Road Groundwater Plume Community Advisory Group in February, 2018.

#### **Barta Enterprises Company, State No. 3-16 Lease Tank Battery Site, Pawnee County, Oklahoma**

December 20, 2017, an EPA Inspector is scheduled to conduct a Spill Prevention Control and Countermeasure inspection at the Barta Enterprises Company, State No. 3-16 Lease Tank Battery production facility, located in Pawnee County, Oklahoma. The Inspection was scheduled due to citizen

complaints and/or alleged unreported spills.

**San Mateo Creek Basin Site, McKinley and Cibola Counties, New Mexico**

At the request of Acoma Pueblo, Superfund intends to meet with Acoma Pueblo council to provide government-to-government consultation regarding the proposal for the San Mateo Creek Basin Legacy Site to the National Priority List on December 21, 2017. The purpose of the consultation is to provide information to the Pueblo's leadership about the listing, to solicit input, and also to request a letter of support for the site's NPL proposal.

**Atchley Resources, Inc., Bolon No 1 -34 Facility, Cleveland County, Oklahoma**

EPA intends to issue an Expedited Settlement Agreement to Atchley Resources, Inc., for violations of 40 CFR part 112, for failing to provide management approval for their Spill Prevention Control and Countermeasure plan, failure to maintain training records and inadequate secondary containment. The violations were documented during an inspection of their Bolon No. 1-34 Facility in Cleveland County, Oklahoma, on November 14, 2017. The proposed penalty is \$1,200.

***Extreme Metals, Emory, Texas***

*EPA will complete removal activities at this former metal plating facility. The site waste, previously bulked in November 2017, will be transported off-site and securely disposed.*

**NEPA**

**Midcontinent Supply Header Interstate Pipeline Project, Bennington, Oklahoma**

The Federal Energy Regulatory Commission (FERC) prepared an Administrative Draft Environmental Impact Statement (ADEIS) for the Midcontinent Supply Header Interstate Pipeline (MIDSHIP) Project. The proposed project will construct and operate new and existing pipeline infrastructures in Oklahoma, Texas, and Louisiana. The FERC will use the ADEIS in its decision-making process to determine whether to issue a certificate of public convenience and necessity for the MIDSHIP Project. Region 6 will support the FERC by meeting our basic statutory requirements for participating in the environmental review process.

**UPCOMING PUBLIC EVENTS**

December 20 – Arkansas Department of Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Little Rock, Arkansas

January 9 – Louisiana Department of Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Baton Rouge, Louisiana

January 10 – Meeting with State Agricultural Directors for Region 6 States, Dallas, Texas

January 17 – Texas Commission on Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Austin, Texas

January 18 – Senate Environment and Public Works Hearing regarding EPA Hurricane Response, Washington, D.C.

January 23 – National Oil and Gas Roundtable, Denver, Colorado

January 24 – National Air Quality Conference, Austin, Texas (tentative)

April 11 – Regional Tribal Operations Committee Meeting, Dallas, Texas

## **UPCOMING DECISIONS**

### **Arkansas Memorandum of Understanding (12/15 court filing deadline)**

EPA plans to enter into a Memorandum of Understanding (“MOU”) to outline a mutually agreed timeline with Arkansas for submittal and review of Arkansas Regional Haze SIP revisions. A status report is due to the court on December 15, 2017 whereby EPA intends to ask for a continuance of the abeyance while EPA receives and processes Arkansas’ SIP revisions. The plan is for the Status Report to include EPA’s signed MOU with Arkansas. In addition, ADEQ will request from the court a judicial stay for the SO<sub>2</sub> requirements for portion of the FIP that remains in place. Consistent with the MOU, EPA will not oppose Arkansas’ judicial stay request.

### **Louisiana Regional Haze (12/15 consent decree deadline)**

EPA intends to take final action on all outstanding requirements for the Louisiana Regional Haze Program which was under Consent Decree deadline of December 15, 2017. EPA intends to finalize our Nelson proposal as part of the final consolidated RH action approving revisions to the Louisiana SIP submitted by LDEQ. We are also finalizing our proposed determination that Louisiana’s participation in the Cross-State Air Pollution Rule’s trading program for ozone season NO<sub>x</sub> qualified as an alternative to BART.

### **TCEQ Exceptional Events Demonstration, El Paso, Texas**

EPA will concur on the document for the El Paso Exceptional Event demonstration presented by the Texas Commission on Environmental Quality (TCEQ). TCEQ has asked to except the air quality 8-hour ozone concentration value of 77 parts per billion and flag the hours of 1100-1800 local standard time (LST) on June 21, 2015, at the University of Texas at El Paso (UTEP) monitor. TCEQ submitted the demonstration package on September 27, 2016, after completing a 30-day public review period. Additional information was submitted for review on January 19, 2017, January 20, 2017, and May 20, 2017. After careful consideration of the information provided, the EPA concurs, based on the weight of evidence, that the TCEQ has made such demonstration.

## **PAST WEEK ACCOMPLISHMENTS**

### **Dallas Fort Worth VOC Rules and VOC Reasonably Achievable Control Technology**

EPA approved changes to the Texas State Implementation Plan making state rules affecting sources in the ten county DFW area federally enforceable and which satisfies the state’s obligation under the Clean Air Act to meet VOC RACT for the DFW area.

### **VOC Definitions for Arkansas Air Quality Rules**

EPA approved revisions that will incorporate EPA’s latest definition of VOC in the Arkansas State

Implementation Plan on the basis that these compounds make a negligible contribution to tropospheric ozone formation.

#### **Title V Permit for Monarch Waste Technologies, Nambe, New Mexico**

EPA requested a complete Part 71 permit application by June 1, 2018 in order to permit operation of the Pyromed 550 system incinerator on Pueblo of Nambe tribal lands. An operating permit is required pursuant to the New Source Performance Standards for Hospital/Medical/Infectious Waste Incineration (HMIWI) regulations. EPA's federal operating permit rules require operating permits to be submitted within 12 months after the source becomes subject to the permit program, or on or before such earlier dates as the permitting authority may require. EPA may request permit applications earlier than 12 months provided the source is notified of an earlier submittal date at least 6 months in advance of that date. Because of expected interest in this operation, we are requesting the Title V permit application by June 1, 2018.

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#### **New Mexico SIP Submittals for Infrastructure and Interstate Transport for the 2012 Fine PM NAAQS**

EPA approved the NM SIP demonstrating that CAA infrastructure and interstate transport requirements have been met for the 2012 PM<sub>2.5</sub> NAAQS.

#### **PENDING ACTIONS (Pending Federal Register Publication)**

Oklahoma: Final Approval of State Underground Storage Tank Program Revision  
FRL 9968-28-Region 6 and 99

## Region 7

### Hot Issues

#### West Lake Landfill Update (Bridgeton, MO)

Key Message: Region 7 continues working with the State, USACE and PRPs.

- Review of the final draft of the Remedial Investigation Addendum submitted last week by the PRPs continued on into this week. This week, a conference call was held with the State and USACE to discuss their comments on the final draft of the Remedial Investigation Addendum.
- On Monday, a call was held with the PRPs to establish the schedule for submission of the final draft of the Final Feasibility Study. Major components of the Final Feasibility Study will start to arrive next week, including schedule and cost information for the risk based industrial use partial excavation alternative and the full excavation of RIM with on-site disposal in an engineered cell alternative, culminating in a final submission January 10.
- The date for the NRRB consultation is tentatively scheduled for January 9.

#### Exploring Redevelopment Opportunity-Anschutz Mine Site (Fredericktown, MO)

Key Message: Potential redevelopment opportunity at NPL site.

- Region 7 is coordinating with the Missouri Department of Natural Resources and Environmental Operations Inc (EOI) who is interested in purchasing a portion of the site for cobalt production. Cobalt is an important mineral used in the production of electric car batteries.
- The site is currently on the NPL. There is interest in deleting a portion of the site or transferring lead to the state. EPA is arranging a meeting with the state and EOI to discuss EOI's plans for the site, and to identify options for a path forward.

### Project Meetings

#### Doe Run Company Meeting with Region 7

Key Message: On December 12, EPA Region 7 held a regularly scheduled project meeting with Doe Run to discuss multimedia projects being conducted by the Doe Run Company under Superfund, RCRA and Air authorities.

- The Superfund discussions covered Herculaneum Smelter Site repurposing; Doe Run's request for the release of funds currently held as financial assurance for two cleanup actions as a result of progress toward completion of the cleanups; actions to address flooding impacts and release of lead contaminated mine tailing from the St Joe State Park/Federal Tailings Pile Site; status of the residential cleanup actions for Big River OU1; update on the FS for the IROD for Big River OU2 which is currently with EPA Region 7 for review; and the status of the City of Viburnum residential action.

### **Jasper County, MO Site Public Meeting**

Key Message: On December 11, the Natural Resources Damage and Restoration Trustees (NRD) of Jasper County, MO hosted a public meeting and availability session for Superfund sites and restoration projects in the County.

- The NRD is led by the MDNR and the US Fish and Wildlife Service and approximately 19 people attended including members of the public, city managers for Joplin and Webb City (MO), Missouri Department of Health and Senior Services, Missouri Department of Conservation, and EPA.
- The focus of the meeting was on the Springfield Plateau Regional Restoration Plan and there was additional discussion on the use of the Webb City biosolid compost project for material in some of the NRD restoration projects.
- Only a few general questions were directed at EPA projects with responses explaining the general nature and extent of work being performed on the mine waste locations in Jasper and Newton Counties.



## Region 8

### *Hot Issues*

#### **EPA Region 8 Assisting Colorado Department of Public Health and Environment (CDPHE) on Beneficial Use Determination for Mixed Oil Field Wastes Used for Dust Suppression.**

The EPA is providing technical assistance to the CDPHE Solid Waste and Materials Management Program on their beneficial use determination for the use of mixed oil field wastes as a dust suppressant in southwestern Colorado. EPA's assistance was requested by the Ute Mountain Ute Tribe, CDPHE, and the facility marketing the dust suppressant (Reams).

#### **The Department of Justice to Move to Enter the Consent Decree on Behalf of the U.S. EPA and the Colorado Department of Public Health and Environment vs. PDC Energy, Inc.**

The DOJ plans to move to enter the negotiated consent decree between DOJ, U.S. EPA and CDPHE vs. PDC Energy, Inc. the week of December 11, 2017, most likely on December 15, 2017. No comments were received in the 30-day comment period after filing the CD.

**Region 8 Referred an Enforcement Action Against Enterprise Gas Processing, LLC and Enterprise Products Operating LLC to the Department of Justice for Violations of the Clean Air Act** Region 8 seeks the assistance of the Department of Justice in pursuing an enforcement action against Enterprise Gas Processing, LLC and Enterprise Products Operating LLC for violations of leak detection and repair (LDAR) requirements at the Meeker Gas Plant ("Meeker Plant") near Rifle, Colorado.

**Region 8 will be issuing Administrative Orders to Big Sandy public water system located in Sweetwater County, WY and Potlatch Trailer Park public water system located in Goshen County, WY due to a nitrate maximum contaminant level (MCL) exceedances.**

### ***RA/DRA Public / Media Engagements***

On December 20, Region 8 Administrator, Doug Benevento, will conduct an on-the-record interview with the Bismarck Tribune (Bismarck, ND)

### ***Upcoming Major Decisions - None***

### ***Last Week Highlights***

**Crossroad Commerce Park Receives Prestigious 2017 Region 8 Phoenix Award at the National Brownfields Conference** The award recognizes the innovative State of Colorado-EPA-private partnership that successfully cleaned up the proposed ASARCO Globe Superfund Site in Denver, and redeveloped it as the Crossroads Commerce Park, which provides over 350 jobs in manufacturing, warehousing, and professional services in this Environmental Justice community. The 77-acre site is located in Denver's Globeville neighborhood, a historically economically depressed part of the Denver metropolitan area.

**On December 7, 2017, the China Global TV Network aired a story about food loss reduction that included an interview of Virginia Till, Region 8's Sustainable Management of Food Coordinator.** The story focused on EPA Food Recovery Challenge member FoodMaven (which collects surplus food and sells to food service industries at below-market cost) and the general topic of food waste. The final story included food waste statistics and a

screen shot of the EPA SMF Website. View here: <https://www.youtube.com/watch?v=kHSJQhrL-sU&feature=youtu.be>

## Region 9

### URGENT/IMPORTANT ITEMS:

California wildfires: FEMA will issue us an amended mission assignment to focus on Ventura County's estimated 1,000+ structures. The wind-driven Thomas fire rages at 30% containment in Ventura and Santa Barbara Counties, with mandatory and voluntary areas of evacuation. At present, water and wastewater systems (including tribal systems) are operating, though some in San Diego remain under boil-water orders. We are working with our State partners to ensure the Governor's emergency declaration is structured similarly to his earlier No. California declaration, to allow us to proceed without right-of-entry and liability concerns. We provided FEMA with recommendations of tasks needing an early start, such as setting up data management systems and collection/staging areas. FEMA is seeking the state's concurrence on the new scope. We thank Regions 6, 7, 8 and 10 for their continuing support in No. California.

Anaconda: this is among the 21 sites for the Administrator's focus. Next Tuesday, Regional Counsel Sylvia Quast and I will meet with BP/Atlantic Richfield VP Bob Genovese to negotiate resolution of EPA's past costs. We'll then work with Nevada DEP on the timing of closing out our three administrative orders to the company, and will seek to finalize the two tribal MOUs (Walker River Paiute, Yerington Paiute) in January.

USAF CERCLA Dispute: I convened State of California and Air Force executives regarding the long-running remedy dispute at Edwards Air Force Base. At issue is the State's proposed toxicity criteria, which will become a regulation in 2018. We have briefed OLEM (Kelly, Woolford) and OECA (Bodine). I'm planning to draft and issue a decision in the next two weeks.

### EXTERNAL ENGAGEMENT:

Mexican Border: with DOJ, this week we convened a meeting of key local officials and the International Boundary and Water Commission (IBWC), to forestall the cities intent to sue IBWC for the ongoing Mexican Border sewage spills. We're focusing on local/state/federal cooperation and on U.S.-side options to mitigate the impacts of spills from Mexico.

Deconstruction workshop: this week we hosted a workshop on best practices of deconstruction and building materials reuse with 35 local experts. This supports our effort to reduce the estimated 534 million tons of construction materials which would be landfilled when excessed.

### PAST WEEK'S HIGHLIGHTS:

EPA Workspace: we are making yet more efficient use of our San Francisco Regional Office footprint, and have relinquished an additional 7600 square feet to GSA, saving EPA \$337,668 per year. This will also benefit the two other federal-agency tenants in our building, who need more space. With regard to our Regional laboratory, OARM has secured a 3-year extension, which runs through January 2022, with the option to vacate earlier.

## Region 10

### Hot Issues

None this week.

### Upcoming Public Events

**Region 10 Announces Portland Harbor Superfund Cleanup Accomplishments:** As early as December 18, Region 10 and the Oregon Department of Environmental Quality will issue a news release announcing efforts to move cleanup forward at this large river sediment site including recent agreements with responsible parties for sampling and early action hot spot cleanups. Portland Harbor was listed as one of 21 priority Superfund sites across the country targeted for immediate and intense attention by the Administrator's Superfund Task Force.

**Region 10 Announces Diesel Emission Reduction Grants:** During the week of December 18, Region 10 will issue a news release announcing \$1.6 million in grants to two Portland-area organizations for the replacement of old diesel engines on trucks and construction equipment and to the Puget Sound Clean Air Agency to replace old marine engines on vessels in the Puget Sound area. OPA has reviewed and approved this news release.

### Upcoming Major Decisions

**U.S. Navy Arctic Ice Camp NPDES Permit Modification:** Region 10 plans to issue a permit modification for the U.S. Navy Arctic Ice Camp during the week of December 18<sup>th</sup>. The Region posted the draft modification for public review from November 2 to December 4, 2017. The modification would expand the area where the potential wastewater discharges may occur and address other minor changes associated with how the waste streams are managed at the camp. The change will allow the Navy flexibility to locate the camp on more stable multiyear ice and account for increased ice movement during the six-week operational period. The region received one set of comments from an environmental consulting firm, most of which are outside the scope of the permit modification. We are developing responses to the comments and completing the final permit package now.

**Settlement at Bunker Hill Mine Returns Mine to Production in North Idaho:** EPA is completing settlement negotiations with Placer Mining Corporation, owner and operator of the Bunker Hill Mine in Kellogg, Idaho. For over 20 years EPA has been treating the acid mine drainage from the Bunker Hill Mine without recovering costs for treatment. The settlement agreement, once effective, is structured to recover up to 82 percent of the past costs for water treatment and result in payment for future water treatment costs. This settlement of claims between EPA and Placer Mining Corporation enables the new lessor of the mine, one of the most productive mines in the Coeur d'Alene Mining District, to return it to production after a hiatus of more than two decades.

### Last Week Highlights

**RA and Senior Advisor Visit Superfund Sites and Meet With Stakeholders:** On December 13<sup>th</sup> and 14<sup>th</sup>, Kell Kelly visited Region 10 and while here, visited the Portland Harbor Superfund Site where he met with a range of stakeholders and toured the 10-mile river corridor that comprises the site. Kell also attended the Region 10 Regional Tribal Operations Committee meeting where he discussed the Administrator's Superfund priorities. Regional Administrator, Chris Hladick, also visited the Portland Harbor site with Kell and later toured the Quendall Terminals site near Seattle. Both Portland Harbor and Quendall Terminals are on the Administrator's list of 21 Superfund sites which will receive intense and immediate attention.

**Idaho Small Suction Dredge NPDES General Permit Goes to Federal Register:** The Federal Register Notice for the Idaho Small Suction Dredge General Permit was published on December 13<sup>th</sup>, starting a comment period that will end on January 29<sup>th</sup>. This is a revised draft General Permit covering the small suction dredging operations across the state of Idaho. The current permit expires on April 30, 2018. Current permit holders, those who have applied for permits and our state and tribal partners have all been notified. EPA currently still implements the NPDES program in Idaho.

## Office of Administration and Resources Management

### ***Hot Issues***

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#### **National Advisory Council for Environmental Policy and Technology**

OARM sent a request to agency senior leaders for assistance in identifying nominations for a diverse group of qualified candidates to serve on the council. NACEPT was established in 1988 to provide independent advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. Nominations must be received by January 3, 2018.

#### **Chesapeake Bay Program Office**

The Maryland Governor's office, along with Senator Cardin, have continued inquiries into the future state of EPA's field office in Annapolis as it relates to the Chesapeake Bay Program. OARM has notified OCIR that we are no longer pursuing leased space in Annapolis. The agency has determined that there is sufficient space in the EPA owned facility at Ft. Meade which will enable the agency to avoid leasing cost and invest those cost savings into the program.

### ***Upcoming Public Events***

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None

### ***Upcoming Major Decisions***

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None

### ***Last Week's Highlights***

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#### **Partnership for Public Service**

On December 14, 2017, OARM's Principal Deputy Assistant Administrator, along with representatives of OGC and OIG, discussed best practices and approaches to handling IG investigations at the monthly Assistant Secretaries for Administration and Management Roundtable meeting sponsored by the partnership for Public Service. Discussion areas included: improving working relationships with OIG, sustaining that relationship, and best practices for investigations.

#### **National Fleet Management and Reservation System**

OARM has acquired a new National Fleet Management and Reservation System that will be rolled out in phases over the coming months. Among other benefits, the system will standardize the way we manage and report on our fleet across all EPA offices, lower service costs, and reduce contractor support. OARM will be coordinating with all locations with fleet management responsibilities. Full implementation of the system is expected by FY 2020.

## Office of Air and Radiation

### Upcoming Hot Issues and Important Deadlines

- **Tracking SIP Actions:**
  - Total Number of SIPs submitted to Regions in FY 2018: 42
  - Total Number of SIP Submittals with Final Action taken by the Regions in FY 2018: 26
  - Total Number of Backlogged and Non-backlogged SIPs: 714
    - Backlogged: 393
    - Non-backlogged: 321
- **OAR actions under review at OMB:**
  - Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
  - Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
  - Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units – Advance Notice of Proposed Rulemaking
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
- **2015 Ozone Standard Designations:** As early as next week, Regional Administrators will issue 120-day letters to Governors outlining EPA's intended designations.
- **2010 Sulfur Dioxide Standard Round 3 Designations:** By December 31, 2017, EPA must designate all remaining areas of the country that did not elect to install new SO<sub>2</sub> air quality monitors.

### State Implementation Plan (SIP)-Related Actions

- The Regions report that the following 7 SIP-related actions was signed this week:
  - **Region 1: Final Rule** - Massachusetts Finding of Failure to Submit Interstate Transport SIP for 2012 PM<sub>2.5</sub> NAAQS
  - **Region 3: Proposed Rule** - Virginia - Definition of VOC Revision C-16
  - **Region 3: Proposed Rule** - Virginia - Definition of VOC Revision I16
  - **Region 5: Withdrawal Notice** - Wisconsin Streamlining of Air Permit Process, Revisions to NR 400 and 406
  - **Region 5: Proposed and Final Rule** - Ohio Regional Haze 5-year Progress Report
  - **Region 5: Withdrawal Notice** - Illinois VOM Definition Update, R17-2
  - **Region 9: Final Rule** – California diesel truck anti-idling provisions

### Upcoming Meetings, Public Events, or Other Public Releases

- **Light Duty Vehicle Fuel Economy Trends Report and Greenhouse Gas Performance Report:** EPA is close to releasing the annual Trends and GHG Performance reports.
- **ENERGY STAR Specifications:** During the weeks of December 18 and 25, EPA will finalize two ENERGY STAR specifications after multiple drafts and close work with stakeholders:
  - The uninterruptible power supply specification adopts a new federal test method and raises levels beyond the forthcoming federal standard.
  - The commercial water heater specification also adopts a new federal test method and expands the scope to include commercial heat pump water heaters.

### Upcoming Decisions

- **For Administrator's Signature –Approval of Louisiana's Request to Relax the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Several Parishes in Louisiana:** This final rule relaxes

the federal RVP regulation applicable to gasoline introduced into commerce in 11 Louisiana parishes for gasoline sold during the summer ozone season. The package is with OEX.

- **For Administrator's Signature –Approval of Tennessee's Request to Relax the Federal Reid Vapor Pressure Volatility Standard for Shelby County (Memphis):** This final rule relaxes the federal RVP regulation applicable to gasoline introduced into commerce in Shelby County (Memphis) for gasoline sold during the summer ozone season. The package is with OEX.
- **For Administrator's Signature – Renewable Fuel Standard (RFS) Program: Grain Sorghum Oil Pathway:** This proposed rulemaking responds to an industry request to assess whether biofuel made from non-food grade grain sorghum oil should be qualified as a pathway under the RFS program. The NPRM presents EPA's analysis and proposes to find that certain fuels produced with this feedstock qualify for advanced biofuel and biomass-based diesel designation. The package is with OP for review.
- **For Administrator's Signature – Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant:** This consists of two actions: a withdrawal of a direct final rule, which needs to be published in the Federal Register by December 27, 2017 (the effective date of the rule); and a final rulemaking that needs to be finalized in advance of January 1, 2018, so that retailers and distributors have certainty that they can continue to sell their existing inventory of refrigerant products without restriction. The package is with OP for review.
- **For Administrator's Signature – Notice of Final Action Denying Petition for Rulemaking: Denial of Petition to List Concentrated Animal Feeding Operations Under Clean Air Act Section 111:** EPA needs to respond to a lawsuit filed in August 2017 for unreasonable delay in responding to this petition. Our response to the complaint is due on or before January 10, 2018.

#### Recap of Past Week

- **Actions signed (or expected to be signed) this week:**
  - Revisions to Testing Regulations for Air Emission Sources
  - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; Rotary Spin Lines Technology Review and Revision of Flame Attenuation Lines Standards (signature expected on or before the consent decree deadline of December 15<sup>th</sup>).
- **Clean Air Act Advisory Committee (CAAAC) Annual Fall Meeting:** On Tuesday, December 12<sup>th</sup> EPA staff participated in the CAAAC Fall meeting here in Washington, D.C.



## Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

TSCA New Chemicals Determinations				
	Determination Type	Pending on 12/12/2017	Determinations Completed <sup>1</sup> as 12/12/2017	Determinations Posted on the Website as of 12/12/2017
1	# of "not likely" determinations	1	108 <sup>4</sup>	105 <sup>4</sup>
2	# of §5(e) Orders signed by both EPA and the submitter	-	296	296
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	71	-	-
4	# of non-Order SNURs/"not likely" determinations	0	0	0
5	# of cases in post-FOCUS final determination development <sup>5</sup>	309 <sup>3,5</sup>	-	-
6	# of cases flagged for in-depth review	57	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	18	-	-
8	# of LVE/LOREX exemption grants	-	493	495
9	# of LVE/LOREX exemption denials	-	101	95
10	<b>Total number of cases</b>	<b>456</b>	<b>998</b>	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	77 <sup>3</sup>	-	-
13	<b>Backlog<sup>2</sup></b>	<b>79</b>	-	-

<sup>1</sup>"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

<sup>2</sup> (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

<sup>3</sup> Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

<sup>4</sup> "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

<sup>5</sup> These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURs coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

HOT ISSUES

**Worker Protection Standard (WPS) and Certification & Training (C&T) Rule** – On Thursday, December 14<sup>th</sup>, EPA released pre-publication copies of Federal Register Notices announcing that EPA has initiated a process to reconsider certain requirements in the WPS for minimum age, designated representatives, and application exclusion zones, and the minimum age requirements in the C&T rule. EPA expects to publish Notices of Proposed Rulemaking to solicit public input on proposed revisions to both rules by the end of FY2018. The compliance dates in the revised WPS published on November 2, 2015, remain in effect; the Agency does not intend to extend them. Similarly, the implementation dates in the January 4, 2017, final C&T rule remain in effect.

**Glyphosate Draft Risk Assessments** – On Monday, December 18th, OCSPP will post the draft human health and ecological risk assessments for glyphosate on the Web and later on [www.regulations.gov](http://www.regulations.gov) (docket EPA-HQ-OPP-2009-0361) for a 60-day public comment period. The ecological risk assessment includes an evaluation of the potential for effects on non-target organisms from exposure to glyphosate, incorporating available exposure and effects data, and using the most current risk assessment methods. The human health risk assessment includes an evaluation of dietary, residential/non-occupational, aggregate, and occupational exposures. Additionally, an in-depth review of the glyphosate cancer database was performed. An OPP Listserve will announce a new web page to host the draft risk assessments and several supporting documents.

**Neonicotinoid Ecological and Human Health Risk Assessments and Benefits Assessments for Public Comment** – On Friday December 15th, OCSPP will release the preliminary ecological and human health risk assessments for the neonicotinoid insecticides clothianidin, thiamethoxam, and dinotefuran, and a preliminary ecological risk assessment for imidacloprid assessing risks to birds, mammals, non-target insects, and plants. OCSPP will also release its response to public comments on the 2014 Benefits of Neonicotinoid Seed Treatment to Soybean Production as well as new cotton and citrus benefits assessments for foliar applications of neonicotinoids. These assessments complement the preliminary pollinator-only risk assessments the Agency published for comment in 2016 and 2017. Preliminary human health and ecological assessments (for aquatic species only) were also released for imidacloprid in 2017. OCSPP is especially interested in public comment on the benefits assessments for cotton and for citrus, since previous assessments identified potential risks to pollinators from these uses. Early input from the public may be helpful in developing possible mitigation options that may be needed to address risks to bees. Among the benefits identified, the neonicotinoids were found to be critical for management of Asian citrus psyllid, which causes citrus greening—a devastating pest for citrus growers—and for control of plant bugs and stink bugs in cotton.

**Adopting 2017 North American Industry Classification System (NAICS) Codes to the Toxics Release Inventory.** Within the next two weeks, OCSPP will announce a final rule which updates the North American Industry Classification System (NAICS) codes that are used to classify facilities subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Facilities meeting Toxics Release Inventory (TRI) reporting requirements will be required to use 2017 NAICS codes on TRI reporting forms, beginning with reporting forms that are due on July 1, 2018 (covering releases and other waste management activities at facilities for the 2017 calendar year). This final rule does not add any new reporting requirements or burden.

#### LAST WEEK HIGHLIGHTS

**Public Meeting on Approaches for Identifying Potential Candidates for Prioritization for Risk Evaluation, December 11.** OCSPP hosted a public meeting to focus on possible approaches for identifying potential candidate chemicals for EPA's prioritization process under TSCA. As amended, TSCA requires that EPA establish

processes for prioritizing and evaluating risks from existing chemicals. EPA described and took comment on a number of possible approaches that could guide the Agency in the identification of potential candidate chemicals for prioritization.

**EPA Region 7 and 8 State Departments of Agriculture Meeting, December 11-12, 2017** –Richard Keigwin, Director of the Office of Pesticide Programs (OPP), participated in the Region 7 and 8 State Departments of Agriculture Meeting in Denver, Colorado to provide updates on the Worker Protection Standards, Certification & Training of Pesticide Applicators Rule, Endangered Species Act and weed resistance. He also participated in a roundtable discussion on label changes in response to reported incidents from the use of Dicamba and a roundtable discussion on marijuana/industrial hemp and pesticides.

**Society of Risk Analysis Meeting - December 12, 2017** – OCSPP Deputy Assistant Administrator Nancy Beck participated in a roundtable discussion at the Society of Risk Analysis Meeting entitled *What is the Optimal Approach to Organizing Governmental Risk-Related Science Advisory Processes*. Additionally, Steve Nako from OPP's Health Effects Division will gave a presentation on *Trends in Toxicity Adjusted Dietary Exposure to Organophosphorus and N-Methyl Carbamate Pesticides*, and Jeff Morris, Director of the Office of Pollution Prevention and Toxics (OPPT), participated in a panel on the amended Toxics Substances Control Act and susceptible subpopulations.

## Office of the Chief Financial Officer

### Hot Issues

- The House of Representatives introduced a second short-term Continuing Resolution funding the government through January 19. There is a possibility that this may be voted on by the House early next week. The Senate would not act until after the House passes the CR extension. The current CR expires December 22.
- After coordinating with the Policy Team and OMB, OCFO issued to key senior officials, via a restricted access Sharepoint site, a memorandum outlining the major policy and final resource decisions for the EPA's FY 2019 President's Budget request. OCFO also issued process guidance informing the NPMs when and how the FY 2019 Congressional Justification will be developed, reviewed, and submitted to Congress after approval by the Policy Team and OMB. The FY 2019 President's Budget and CJ are due to Congress and made available to the public on February 5.
- To date, EPA has received 52 mission assignments or agreements from other federal agencies for a total of \$167.7 million to support disaster responses, including \$51 million to support the California wildfires, all of which is in addition to EPA's base appropriated funding. This includes two mission assignments totaling \$20 thousand for Region 9's support responding to the new round of Southern California wildfires. EPA continues to submit Hurricane Harvey and now Irma billings for a total of \$7.8 million to date to FEMA which requires detailed information to support expenses for reimbursement.

### Upcoming Public Events

- N/A

### Upcoming Major Decisions

- Working with the COO, OCFO is finalizing strategic measure and Agency Priority Goal targets, along with supporting Data Quality Records. Provided current draft documentation to COO in order to share advance draft to OMB. Incorporating the measures/targets in the final draft *FY 2018-2022 EPA Strategic Plan* due to OMB no later than December 22.
- Policy Team Review of the results of senior leader review of public comments on the draft *FY 2018-2022 EPA Strategic Plan* concludes December 15 and December 14 for the draft *FY 2017 Annual Performance Report* and two-page performance highlights. The FY 2017 APR reflects results in meeting budget measure targets, which are included in the FY 2019 CJ.

### Last Week Highlights

- OCFO presented 2017 enterprise risks results with First Assistants last week and will present to DAA/DRA's on December 21 and plan to send a communication to senior leaders soon.

### Other

- With many planning leave next week for the Christmas holiday, OCFO encourages all offices to make arrangements to ensure that all timecards are submitted and approved in PeoplePlus, the agency's time and attendance system, by December 21 to minimize impacts on pay and allotments.
- And, as a reminder, employees will see their direct deposit for the pay period ending December 23 on January 2 rather than December 29 to ensure that, for tax purposes, earnings are reported in the appropriate calendar year. Employees may need to make adjustments to automatic payments or transfers in their bank accounts to accommodate this one-time pay schedule change.

## Office of Congressional and Intergovernmental Relations

### - *Upcoming Hot Issues and Important Deadlines*

### - *Upcoming Events*

- **January 24- 26** – US conference of Mayors will host its 86<sup>th</sup> annual Winter Meeting in Washington, DC

### - *Past week accomplishments*

- **Week of Dec 11** – Transmittal of 2017 National Water Quality Indicators Report to Congress
- **Dec 11** – Public meeting on TSCA prioritization for risk evaluation w/OCSP
- **Dec 12** – Meeting with Cong. Walden (OR) staff and OR ag contacts re: pesticides and water issues w/OCSP and OW
- **Dec 12** – Ken Wagner, Senior Advisor to the Administrator attended the Ag State Directors meeting for Region 7 and Region 8 and spoke on Cooperative Federalism
- **Dec 12** - EPA spoke to Rep. Barr's (KY) staff about a constituent's auto import issue and explained that, at our request, the automaker contacted the constituent directly to explain the holdup was not because of any EPA issue.
- **Dec 12** - WOTUS Update Webinar –OW hosted a webinar for intergovernmental stakeholders on the WOTUS Step 2 Rulemaking
- **Dec 12** - The House Committee on Energy and Commerce Subcommittee on Environment and Subcommittee on Digital Commerce and Consumer Protection held a hearing entitled, "Update on the Corporate Average Fuel Economy Program (CAFE) and Greenhouse Gas Emissions Standards for Motor Vehicles.
- **Dec 14** – Senate Commerce and Senate EPW briefing/TA on vessel discharges w/OW, OGC
- **Dec 14** - Meeting with Congressman Cramer's staff, Sabin Metals and Mayer Brown LLP to discuss the impacts of the import ban of petrochemical byproducts to the U.S. for recycling.
- **Dec 14** – Notification of intent to initiate regulation revisions on WPS and C&T rules w/OCSP
- **Dec 14** – Senate confirmed David Ross, AA OW, and Matt Leopold, AA OGC
- **Dec 15** – Notification of Proposed Rule on Nutrient Criteria for Missouri Lakes and Reservoirs
- **Dec 15** – Sen. McCain (AZ) staff follow-up briefing on Rio Salado w/OW and Regional staffs, plus Urban Waters Federal Partnership Ambassadors
- **Dec 15** – Notification of glyphosate proposed human health risk assessment w/OCSP

### - *Ongoing activities*

- **FY18 Appropriations:** A short-term continuing resolution was passed. Government running until Dec. 22.

## Office of Enforcement and Compliance Assurance

### Hot Issues

**US v. Fiat Chrysler Automobiles:** On December 19<sup>th</sup>, Judge Chen of the Northern District of California will hold a status conference in the ongoing multi-district litigation concerning Fiat Chrysler Automobiles' (FCA) use of alleged defeat devices in recent model diesel vehicles. Consistent with previous status conferences, EPA expects Judge Chen will press the United States (and others) to find a technical solution for dealing with the excess emissions from these cars which are currently in use throughout the United States. The United States, California Air Resources Board, and FCA will report that they have finalized a test protocol that will provide an adequate basis for EPA and CARB to determine whether FCA's proposed technical solution is appropriate. Judge Chen and his court-appointed Settlement Master (Ken Feinberg) will likely continue to encourage all parties to find a negotiated resolution for all issues, not just the vehicle recall.

**Clean Air Act Consent Decree with Harley-Davidson:** On December 11<sup>th</sup>, the Department of Justice moved to enter a consent decree with Harley-Davidson. If approved by the court, this would resolve the United States' allegations that Harley sold 340,000 defeat devices, in the form of aftermarket software products to recalibrate the engines of, and increase the pollution from, their highway motorcycles. The United States first lodged a consent decree in August 2016. In July 2017, the United States lodged a revised consent decree that is the same as the first except it does not include a \$3 million air pollution mitigation project under which funds would have been transferred to a nonprofit association to replace wood stoves in the Northeast. Several states and environmental non-profits filed critical public comments on the revised consent decree. In Monday's filing, the United States responded to these comments, explained its rationale for removing the mitigation project (including lack of nexus), and formally asked the court to approve the revised consent decree. On December 12<sup>th</sup>, ten states filed notice of their intent to file an amicus brief in opposition to the United States' Motion for Entry of Consent Decree.

### Upcoming Events/Public Meetings

On December 18<sup>th</sup>, OECA's National Enforcement Investigations Center (NEIC) will host a delegation of enforcement officials from China's Ministry of Environmental Protection to share information on advanced monitoring technology, as well as operating procedures for field and lab components. The delegation's visit will include a tour of NEIC's forensics laboratory.

### Upcoming Major Decisions

None.

### Last Week's Highlights

**Rivers and Harbors Act Criminal Plea:** On December 7<sup>th</sup>, United Industries, LLC, a subsidiary of Progress Rail Services, Inc., was sentenced in the Central District of California to pay a \$5 million criminal fine for violating the Rivers and Harbors Act by depositing train railcar parts into the Port of Long Beach. The company had regularly billed its clients for the unnecessary replacement of functioning railway parts, and engaged in "midnight dumping" of the replaced parts into both the Los Angeles and Long Beach Harbors. In addition to the fine, the Judge required United to pay \$20 million in restitution to three victim companies – TTX Company, Pacer International, and Greenbrier Company, all of whom owned and operated railcars that were improperly serviced and repaired.

The Los Angeles and Long Beach Port Police conducted dives using sonar and located large debris fields of railcar parts. The LA and Long Beach harbors are major ports of entry for commercial goods and services, and the presence of debris on the sea floor could constitute a serious hazard to the large vessels, including petroleum tankers. Progress Rail Services Corporation, a subsidiary of Caterpillar Inc., is one of the largest integrated and diversified suppliers of railroad and transit system products and services in North America. This case was investigated by EPA-CID, the FBI, the Department of Transportation Inspector General, and the Los Angeles and Long Beach Police Departments.

**DOI Meeting to Discuss Drinking Water Compliance and the Superfund Task Force:** Representatives from OECA's Federal Facilities Enforcement Office met with representatives from the Department of Interior (DOI) on December 11<sup>th</sup> to discuss a number of issues, including drinking water compliance and the Superfund Task Force. EPA presented statistics on DOI's public water system universe and compliance issues EPA has identified at these systems. The agencies committed to work together to determine root causes of noncompliance and compliance assistance tools that would help to address those causes. The agencies also discussed the Superfund Task Force, and asked for DOI feedback on those recommendations of interest. The meeting was a successful first step in creating a venue for engagement and collaboration between OECA and DOI.

**Meeting with Department of Defense on Opportunities for Collaboration and Building Compliance:** On Friday December 8<sup>th</sup>, Larry Starfield, Susan Bodine and OECA's Federal Facilities Acting Office Director, Karin Leff, met with Maureen Sullivan, Deputy Assistant Secretary for Environment, Safety and Occupational Health at the Department of Defense (DOD) and Harry Kelso, Deputy General Counsel of DOD, at the Pentagon to build relationships and establish informal communication channels between EPA's enforcement program and DOD. EPA also provided DOD with an analysis of violations and common problems identified at DOD facilities during inspections in an effort to help the Services address environmental compliance issues.

## Office of Environmental Information

### Last Week's Highlights

#### Successful Lean Event for Integrated Error Correction Process

- **Brief description:**
  - EPA's error tracking system provides the ability for states, regions and programs to address error correction requests from public users who identify suspected data errors on EPA's websites: EnviroFacts, Enforcement and Compliance History Online (ECHO) or Facility Registry Service (FRS).
  - On December 6-8, OEI's Office of Information Management, in collaboration with the Office of Enforcement and Compliance Assistance, sponsored a Lean event to improve the Agency's data error correction process.
  - The goal of the event was to design a more effective process for a public user to complete a data error correction request and submit it to EPA, where the request is reviewed and addressed, and the requester is then notified of the results in a timely manner.
  - Status tracking and metrics are part of the process improvements.
  - The Lean process incorporated input from data stewards in states and regions; staff in state environmental agencies or EPA regional offices most often have the authority to make appropriate corrections to program systems.
- **Who benefits or cares:** EPA programs and regions, State & Tribal Partners, public users
- **Why this is important:** State and EPA programs must accurately present data reported from regulated facilities and have the ability to correct errors in a timely manner.
- **Additional information:**
  - The team identified short- and long-term approaches for process and system improvements.
  - Progress will be monitored through EPA's Office of Continuous Improvement.

#### Region 10 Speeds Federal Air Rules for Indian Reservations (FARR) Data Distribution to Tribes with CDX

- **Brief description:** The Tribal Program Team within Region 10 integrated a Central Data Exchange (CDX) closed registration in the FARR Online Reporting System (FORS) to give Tribes the ability to download FARR reports for facilities located within their reservation.
- **Who benefits or cares:** EPA and the 39 Indian reservations in Idaho, Oregon and Washington that FORS supports
- **Why this is important:** The FARR requires owners and operators of certain sources of air pollution to register with EPA and to report their facility's air pollution emissions annually. This new feature within FORS speeds the data distribution process, giving tribes immediate access to data and eliminates the time and effort associated with the previously supported manual distribution process.
- **Additional information:** NA

#### Service Disabled Veteran Owned - Small Business Outreach Event

- **Brief description:** On November 29, the Office of Small and Disadvantaged Business Utilization (OSDBU) hosted its Annual Service Disabled Veteran Owned Small Business outreach event at EPA Headquarters. OEI participated in the outreach event through engaging in a series of one-on-one meetings with individual small business vendors.
- **Who benefits or cares:** EPA, Disabled Veteran Owned small businesses and veterans
- **Why this is important:** This event allowed OEI representatives to learn about various service disabled veteran owned small businesses and the services they provide.

**Additional information:** <https://www.sba.gov/contracting/government-contracting-programs/service-disabled->



veteran-owned-businesses

## Office of General Counsel

### New Judicial Decisions

- In a Freedom of information Act (FOIA) lawsuit challenging EPA's failure to respond to a request for records concerning EPA's handling of PCB contamination at schools in the Santa Monica-Malibu Unified School District, the District Court for the District of Columbia issued a Memorandum Opinion and Order on December 11, 2017, denying in part and granting in part both parties' renewed cross-motions for summary judgment. This was the Court's second opinion in this case; after several rounds of briefing, at dispute was the Agency's assertion of Exemption 5 of the FOIA to withhold nineteen documents. The Court had ordered an *in camera* inspection of these documents in October 2017. After completing its review, the Court issued its opinion and order, granting the Agency's motion for summary judgment with respect to fifteen of the nineteen withheld documents. The Court ordered that the Agency disclose in full four documents, which the Court found were not protected under the deliberative process privilege. In its analysis, the Court explained that one withheld document contained only a clarification and internal explanation but was not predecisional. For the other three documents, the Court explained that the Agency's *Vaughn* Index entries did not establish a link to any particular decisionmaking process. The Court further ordered the Agency to release segregable, non-exempt portions of two documents, the remainder of which the Agency properly withheld under Exemption 5. The Court criticized the Agency for its use of "boilerplate, conclusory language" to address the issue of segregability throughout the *Vaughn* Index, but ultimately agreed that most documents did not contain reasonably segregable factual information that was distinct from the Agency's deliberative process. (*Public Employees for Environmental Responsibility v. EPA*, No. 14-2056)

### New Complaints Filed

- The Clean Air Council and two minors represented by their guardians filed a complaint in the District Court for the Eastern District of Pennsylvania against the United States, President Trump, the EPA (and its Administrator), and the Department of Energy (and its Secretary), alleging that those entities have engaged in or initiated "rollbacks" of several initiatives related to climate change and the electric power sector. According to the plaintiffs, these actions violate two aspects of the U.S. Constitution: (1) A fundamental right to "a life-sustaining climate system and an atmosphere and oceans that are free from dangerous levels of anthropogenic CO<sub>2</sub>," embodied in the Fifth and Ninth Amendments; and (2) a federal "public trust doctrine" that is rooted in both common law and the Fifth and Ninth Amendments. The plaintiffs seek (1) declaratory relief that the federal defendants "cannot effectuate or promulgate any rollbacks" that exacerbate "the life-threatening effects of climate change based on junk science," in such a way that would violate those alleged constitutional rights, as well as (2) any "other and further relief" the court deems just and proper. *Clean Air Council, et al. v. United States, et al.*, no. 1:16-cv-00694)
- Environmental Integrity Project (EIP) filed litigation in the U.S. District Court in the District of Columbia. EPA failed to fully respond to EIP's September 7, 2017 seeking records related to EPA's decision to designate as "inactive" a rulemaking that would require certain oil and gas facilities to disclose their releases of toxic chemicals to the national Toxics Release Inventory. The request was initially assigned to the Office of Chemical Safety and Pollution Prevention (OCSPP). OCSPP issued an interim response on November 28, 2017, and transferred the request to the Office of the Executive Secretariat (OEX). OEX is currently the lead office for the request. (*Environmental Integrity Project v. EPA*, No. 1:17-cv-

2610)

## **Hot Topics**

- OGC launched its new and revised intranet site.

## **New Petitions that OGC is Aware Of**

- The Pennsylvania Independent Oil and Gas Association (PIOGA), an oil and gas trade association in Pennsylvania, filed a petition on December 1, 2017, requesting that the Administrator conduct a rulemaking to reconsider the Unconventional Oil and Gas pretreatment standard rule, and administratively stay or suspend enforcement of the rule with respect to certain operators pending the completion of such rulemaking. There is no statutory duty to respond.

## **Upcoming Public Events & Important Meetings in the Next Two Weeks**

- Kevin Minoli will be out of the office from December 20 through December 26.

## **Upcoming Major Deadlines in the Next Two Weeks**

- 12/15 Parties to file stipulation of dismissal or proposed briefing schedule in *Sierra Club v. EPA*, litigation where plaintiff alleges the EPA failed to promulgate a good neighbor FIP for Texas.
- 12/15 Consent Decree deadline for final RTR for the Wool Fiberglass NESHAP in *Sierra Club v. EPA*.
- 12/15 Consent Decree deadline to take final action on Louisiana's regional haze SIP in *Sierra Club v. Pruitt*, a complaint alleging EPA's failure to perform a non-discretionary duty to promulgate a FIP within two years of EPA's partial disapproval of Louisiana's Regional Haze SIP.
- 12/15 Motion for Summary Judgment due in *EIP v. EPA*, a FOIA matter seeking records pertaining Administrator Pruitt's meetings with outside parties and travel vouchers.
- 12/15 EPA's reply on pattern and practice claim due in *NRDC v. EPA*, a FOIA litigation concerning policy or guidance for removing information or web pages from an EPA website.
- 12/15 Response to Application for Attorneys' Fee in *CBD, et al. v. EPA*, a challenge to registration of cyantraniliprole.
- 12/15 Motion for Summary Judgment due in *Exxon Mobil Corp. v. U.S.*, where plaintiff alleges RCRA work constitutes "necessary costs of response...consistent with the national contingency plan" for which the U.S. is liable under CERCLA.
- 12/15 Consent Decree deadline to either propose nutrient water quality criteria for Missouri lakes or approve criteria adopted by Missouri in *Missouri Coalition for the Environment Foundation v. Pruitt*.
- 12/15 Response to environmental group petitioners' opening brief is due in *SWEPCO v. EPA*, petitions for

review of EPA's 2015 parts of steam electric rule not being reconsidered.

- 12/15 Reply Brief due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.
- 12/17 The Answer is due in *EDF v. EPA*, a FOIA matter in which the District of Columbia alleges that EPA failed to timely respond to three FOIA requests.
- 12/18 Consent Decree deadline to object to the Special Master's report on fees in *Association of Irrigated Residents, et al. v. EPA*.
- 12/18 Answer due in *State of Maryland v. EPA*, litigation alleging the EPA failed to hold a public hearing and take final action on the State's section 126 petition. The State's petition asks EPA to find that 36 power plant units located in Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia are significantly contributing to nonattainment or interfering with maintenance of the 2008 ozone NAAQS in Maryland.
- 12/18 Consent Decree deadline to issue a finding of failure to submit for Pennsylvania and Washington and for Illinois, Massachusetts, and Rhode Island in *CBD v. Pruitt*, a PM2.5 deadline suit.
- 12/18 The Vaughn Index is due in *CBD v. EPA*, a FOIA matter related to the revised water quality criteria for cadmium.
- 12/19 Response due in *American Lung Association, et al. v. EPA*, where plaintiffs allege the EPA failed to designate areas under the 2015 Ozone NAAQS.
- 12/19 Reply Brief in support of Motion to Dismiss due in *City of Highland Park v. EPA, et al.*, where plaintiff alleges that EPA failed to enforce grant conditions and did not adequately oversee Michigan's state permit program.
- 12/20 Response to Motion to Amend Complaint due in *Upper Missouri Waterkeeper v. EPA*, a challenge to EPA 2015 approval of Montana's nutrient variances.
- 12/21 Motions to Govern due in *State of Texas, et al. v. EPA*, a petition for review of EPA's final rule titled "Protection of Visibility: Amendments to Requirements for State Plans."
- 12/21 A document production is due in *S.E. Legal Foundation v. EPA*, a FOIA matter regarding communications between Lisa Garcia and the current Vice-President of Litigation for Healthy Communities at Earth Justice and any employee at Earth Justice from December 2009 through March 2014.
- 12/21 The Answer is due in *Bay Journal Media v. EPA*, a FOIA litigation concerning the Chesapeake Bay program.

- 12/21 Summary Judgment Brief due in *Potomac Riverkeeper, et al. v. Pruitt, et al.*, a challenge to EPA approval of Virginia 2014 303(d) list – Shenandoah River issue.
  
- 12/22 EPA's Appellee brief is due in *Hall & Assoc. v. EPA*, a FOIA matter concerning an EPA Clean Water Act determination to impose an effluent limitation for total nitrogen on certain New Hampshire publicly owned treatment works.
  
- 12/22 Reply in support of Cross-Motion for Summary Judgment due in *Sierra Club, et al. v. Pruitt*, a challenge to extension of compliance date for TSCA formaldehyde rule.
  
- 12/22 Reply Brief due in *Charleston Sanitary Board v. Pruitt*, a challenge to EPA's disapproval of site specific copper criteria in West Virginia.
  
- 12/27 Reply Brief due in *State of Connecticut v. EPA*, where plaintiff alleges EPA failed to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.
  
- 12/27 Answer due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.
  
- 12/27 Answer and Administrative Record due in *Rosado v. Pruitt*, a challenge to MPRSA dredged material ocean dump site in Eastern Long Island Sound.
  
- 12/29 EPA's Reply brief is due in *PEER v. EPA*, a FOIA matter alleging failure to respond to a two-part request that sought, among other things. Statements from the Administrator related to climate change.

## Office of International and Tribal Affairs

### Hot Issues:

**Border Infrastructure Concerns:** The U.S. Customs and Border Protection (CBP) convened an interagency meeting with agencies working on the Mexican border (CBP, State, EPA and International Boundary and Water Commission) as a result of CBP agents health concerns related to the exposure to the cross border sewage spills, particularly in Tijuana. CBP believes there is more than sewage being discharged from the sewage plants and that hazardous materials or chemicals are also in the discharge (based on the agents shoes). The HHS Secretary intends to raise the issue with the WH, followed by calls to Secretary of State and EPA Administrator. The State Department is working on developing an action plan for infrastructure needs for bilateral negotiations with Mexico. CBP also asked EPA for an estimate on how much money the Border Environment Infrastructure Fund (BEIF) would need to help with this problem which OW is working on.

### Upcoming Engagements:

December 15 – Call with the Administrator and Mexican Secretary Pacchiano to discuss bilateral cooperation.  
December 15 – Meeting with OITA/OAR and Japan’s Ministry of Environment to discuss bilateral cooperation and climate change.

### Past Week Highlights:

**U.S.-Morocco Environmental Cooperation Mission:** Administrator Pruitt traveled to Morocco to participate in high level meetings with the Minister of Energy, Mines, and Sustainable Development and the Ministry of Foreign Affairs to advance environmental cooperation under the U.S.-Morocco Free Trade Agreement. Meeting topics included solid waste management, public participation and crisis communication, environmental enforcement and rule of law, U.S. environmental technology solutions, and Moroccan investments in renewable energy. EPA and the State Department have collaborated with Morocco on environmental issues for the past ten years and the Administrator’s mission helped to identify and advance future activities for cooperation, which will be negotiated in February 2018.

**Inter-Agency Environmental Exports Team:** EPA, Department of Commerce and State Department met this week to discuss ways that we could collectively build upon current interagency efforts to promote US exports of environmental technologies. The team is in the process of further identifying key export markets and modes of communication to engage these markets, including outreach to U.S. Embassies and the private sector. In part, this effort will be informed by activities under our existing free trade agreements and data regarding needs and market opportunities provided by State and Commerce. The team intends to reach out to U.S. Embassies in the targeted markets and follow-up with key partners during the first quarter of 2018.

**Tribal Science Council Meeting:** The Tribal Science Council held a meeting in Phoenix, AZ, hosted by the Salt River Pima-Maricopa Tribe. The meeting provided communication and networking opportunities between EPA and tribal scientists. Training on the health effects of lead was held as part of a jointly developed lead education curriculum by EPA and tribal partnership groups. Discussions included tribal youth outreach and EPA research efforts featuring tribally-led projects. As a follow up to the National Tribal Operations Committee (NTOC) meeting in October, ORD facilitated a listening session to identify science and research needs and opportunities for tribes to work with ORD.

## Office of Land and Emergency Management

### Hot Issues

1. **Emergency responses to hurricanes and wildfires.** Large-scale responses continue in both Region 2 (Puerto Rico and the US Virgin Islands) and Region 9 (Northern California). Still to be determined is the potential need for a large-scale EPA response to wildfires in Southern California. An important milestone is noted under “Last Week Highlights,” below.
2. **Coal Combustion Residuals (CCR).**
  - a. OLEM is working with Region 6 and OGC on a proposal to approve Oklahoma's CCR state permit program.
  - b. OLEM, OGC, OP, and OA developed a plan to publish a remand rule in the Federal Register in late January. The package is to go to OMB next week.
  - c. We are working with the AO and OGC on answers to questions posed by Indiana.
3. **Clean Air Act 112(r) Risk Management Program (RMP).**
4. **Ongoing major Superfund NPL sites (for example, B.F. Goodrich, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).** OMB has finished reviewing the next round of proposed and final rules to update the National Priorities List. We are preparing for an announcement in January 2018.
5. **CERCLA-EPCRA AFO-CAFO Rule.** The DC Circuit Court of Appeals granted EPA’s motion to further stay the mandate until January 22, 2018. No reporting is necessary until the mandate is issued.

### Upcoming Public Events

1. **WasteWise Awards.** OLEM is recognizing 16 organizations for their leadership in waste prevention and diversion through this year's WasteWise Awards.

### Upcoming Major Decisions

1. **E-Manifest User Fee Final Rule.** On December 12, OMB concluded interagency review of the draft final rule. It is now en route to the Administrator for signature.

### Last Week Highlights

1. **Region 4’s Hurricane Irma Response.** We reached an important milestone this week as Region 4 was able to file its Final Situation Report for the Hurricane Irma Response. Overall, EPA recovered 146 vessels, and no vessels remain in our Area of Responsibility. Also overall, we collected 722 orphan containers, such as 55-gallon drums, oil containers, and propane tanks, and land-based orphan container recovery operations are now complete. Similarly, the Landfill Specialty Team completed a total of 551 visits. Much of this work was accomplished even as national responses to other hurricane impacts were underway.
2. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing.** The final rule is pending publication in the Federal Register.

## Office of Policy

## Documents Submitted to OFR from December 7 - 12, 2017

FRL	Title	Date Submitted to OFR
9969-98-OCSPP	Product Cancellation Order for Certain Pesticide Registrations	12/12/2017
9970-49-OCSPP	Pesticide Product Registration; Receipt of Applications for New Uses	12/12/2017
9970-50-OCSPP	Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities	12/12/2017
9970-52-OCSPP	Registration Review Proposed Interim Decisions for Several Pesticides; Notice of Availability	12/12/2017
9970-53-OCSPP	Registration Review; Draft Human Health and/or Ecological Risk Assessments for Several Pesticides; Notice of Availability	12/12/2017
9970-54-OCSPP	Interim Registration Review Decisions and Case Closures for Several Pesticides; Notice of Availability	12/12/2017
9970-90-OCSPP	Information Collection Activities; Proposed Collection; Comment Agency Request	12/12/2017
9971-11-OCSPP	Receipt of a Pesticide Petition Filed for Residues of Aluminum tris (O-ethylphosphonate) in or on Fruit, citrus, group 10-10	12/12/2017
9967-81-Region 4	Alabama: Approval of Financial Assurance Regulations for the State's Municipal Solid Waste Landfill Permit Program	12/12/2017
9972-15-OAR	Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2017 Control Periods	12/12/2017
9972-09-Region 9	Arizona: Authorization of State Hazardous Waste Management Program Revisions	12/12/2017
9972-03-Region 9	Approval of Arizona Air Plan Revision; San Manuel, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan	12/11/2017
9966-28-Region 1	Air Plan Approval; CT; Decommissioning of Stage II Vapor Recovery Systems	12/8/2017
9971-71-Region 4	Air Plan Approval; Florida; Stationary Sources Emissions Monitoring	12/8/2017
9971-99-Region 10	Proposed Re-issuance of a General NPDES Permit (GP) for Small Suction Dredges in Idaho	12/8/2017



9971-96-OARM	Senior Executive Service Performance Review Board; Membership	12/8/2017
9971-90-ORD	Integrated Science Assessment for Sulfur Oxides – Health Criteria	12/8/2017
9971-88-Region 10	Finding of Failure to Submit a Section 110 State Implementation Plan for Interstate Transport for the 2012 Annual National Ambient Air Quality Standards for Fine Particles	12/8/2017
9972-02-Region 9	Contingency Measures for the 1997 PM2.5 Standards; California; San Joaquin Valley; Correction of Deficiency	12/8/2017
9967-07-OEI	Agency Information Collection Activities; Compliance Requirement for Child-Resistant Packaging; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9967-78-OEI	Agency Information Collection Activities; Safer Choice Product Recognition Program; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9967-79-OEI	Agency Information Collection Activities; TSCA Section 4 Test Rules, Consent Orders, Enforceable Consent Agreements, Voluntary Testing Agreements, Voluntary Data Submissions, and Exemptions from Testing Requirements; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9971-93-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Pennsylvania's Adoption of Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings; Withdrawal of Direct Final Rule	12/7/2017
9971-98-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings; Withdrawal of Direct Final Rule	12/7/2017

## Office of Research and Development

### Hot issues

#### **PFAS**

On December 12, ORD hosted a teleconference with the Environmental Council of the States (ECOS), interested states and EPA scientists to share information on PFAS research and related state efforts. The agenda included presentations on Michigan's PFAS Executive Directive, Washington State's PFAS Action Plan, air deposition issues, and EPA's cross-agency effort to address PFAS.

#### **Technical assistance to Region 8/Yellowstone National Park**

On December 6, ORD held a call with Yellowstone's Old Faithful Water System (OFWS) Operators and EPA Region 8. OFWS experiences source water quality changes as a result of seasonal runoff that, for about two months of the year, require treatment changes in order to maintain surface water treatment goals. The source water also contains elevated arsenic levels. These operational changes negatively impact arsenic treatment effectiveness and, at times, the ability to meet the maximum contaminant level for arsenic of 10 µg/L. ORD provided suggestions on possible engineering process solutions for arsenic removal during the seasonal changes and strategies to evaluate them. The water system operators may follow-up with additional questions when they approach expected seasonal changes.

#### **Cape Fear PFAS**

On November 30, ORD visited Cape Fear Public Utility Authority (CFPUA) as part of EPA's PFAS treatment project. During this meeting, EPA and CFPUA agreed to continue to work together in the future. CFPUA will send EPA water samples to perform bench-scale treatment technology evaluations. The goal is to further integrate CFPUA's work with Region 4. EPA tentatively plans to return to Cape Fear in February for a follow-up visit.

### Last week Highlights

#### **Linking Remediation to Community Benefits in Michigan**

At the request of the Michigan Office of Great Lakes, ORD researchers were recently invited to a meeting of the Great Lakes Area of Concern (AOC) partners to provide guidance on tools and approaches that can help AOCs move from Remediation to Restoration to Revitalization (R2R2R). AOCs are geographic areas that have been designated under the Great Lakes Water Quality Agreement as significantly impaired for beneficial uses. These are restoration priorities in Michigan, which has 14 of the remaining 27 AOCs in the Great Lakes basin. The state has asked ORD for help to better understand R2R2R, with particular interest in looking at economic and public benefits of AOC clean-ups. During the next six months, Michigan and ORD scientists will plan and define specific activities.

#### **EPA Research Cited in Testimony Regarding Proposed Legislation in Massachusetts**

The Merrimack, Massachusetts (MA), River Watershed Council used findings from a 2015 [journal article co-authored by EPA scientists](#) in their discussion of a [bill](#) to require sewage treatment plants along waterbodies in MA to inform the public when raw sewage is released during Combined Sewer Overflow (CSO) events. The bill would also require the state to track and maintain data on CSO events on a public website. The 2015 study, published in *Environmental Health Perspectives*, found that extreme precipitation events were associated with a 13% increase in emergency room visits for gastrointestinal illness in the Massachusetts population receiving drinking water from CSO-impacted waterbodies. The Merrimack River, a source of drinking water and recreational opportunities for about 600,000 people, is regularly impacted by CSOs. The paper was co-

authored by ORD and the University of Illinois, Chicago.

### **Tribal Science Council**

During the week of Dec. 4, 2017, the Tribal Science Council (TSC) held its face-to-face meeting in Phoenix, AZ hosted by the Salt River Pima-Maricopa Tribe. The meeting provided opportunity for communication and networking among EPA and tribal scientists. We held training on EPA's lead curriculum that promoted collaboration between EPA tribal partnership groups. The TSC led discussions on EPA research efforts featuring tribally-led projects, tribal youth outreach, and a listening session to identify science and research needs focused on creating ORD opportunities for tribes. Discussions included tribal youth outreach and EPA research efforts (RARE and RESES) featuring tribally-led projects. A listening session was facilitated by ORD to identify science and research needs and opportunities for tribes to work with ORD.

### **Superfund**

On December 11-12, ORD helped staff at the Delaware Department of Natural Resources use EPA's ProUCL tool to develop remediation screening levels for a waste site. ProUCL provides statistical methods and graphing tools to address environmental sampling and statistical issues at Superfund sites.

### **Small Business Innovation Research (SBIR)**

The EPA SBIR-funded company, [Nanosafe Inc.](#), issued a press release late last month detailing how they had leveraged their "current Phase I EPA SBIR project entitled 'Mobile Analytical Platform for Lead Detection in Drinking Water' to obtain a matching commercialization grant of \$50,000 from the Commonwealth Research Commercialization Fund (CRCF) offered by the Virginia-based Center for Innovative Technology (CIT). This CRCF matching grant provides additional resources to accelerate development and commercialization of NanoSafe's Mobile Analytical Platform, which will increase sensor resolution for the product currently under development. According to Nancy Vorona, CIT's Vice President of Research Investment, "NanoSafe is the only Virginia company to win an EPA SBIR Phase I award in 2017. Coupled with the additional support of CRCF, NanoSafe is a great example of a company with the potential to push the boundaries of innovation in the Commonwealth."

### **Grantee Publication**

Researchers at the STAR [Predictive Toxicology Center for Organotypic Cultures and Assessment of AOPs for Engineered Nanomaterials](#) based at the University of Washington combined their expertise in synthetic and analytical chemistry, molecular and cell biology, and [published a study](#) showing that microfluidically linked organs-on-chips, aka "microphysiological systems" (MPS), can be used to identify organ-to-organ interactions in response to chemical toxicants. The authors successfully linked a kidney-on-a-chip with a liver-on-a-chip microfluidically to determine the mechanisms of bioactivation and transport of an established, plant-derived, nephro- or kidney toxin and human carcinogen. Environmental exposures pose a significant threat to human health. However, it is difficult to study toxicological mechanisms in human subjects due to ethical concerns. Microphysiological systems (organs-on-chips) provide an approach to examine the complex, species-specific toxicological effects of environmental chemicals using human cells.

## Office of Water

### Hot Issues

Missouri Nutrient Criteria Rulemaking: Tomorrow, we anticipate OMB will clear the proposed Missouri numeric nutrient criteria (NNC) for lakes. Once cleared, the package will then quickly be prepared for the Administrator's signature. EPA is under a consent decree to sign the proposal by December 15.

Public Notification for CSOs in the Great Lakes: We are close to concluding OMB review of the final rulemaking to enhance public notification requirements for CSO discharges into the Great Lakes Basin as required by Section 425 of the 2016 Appropriations Bill. Once cleared, the package will then quickly be prepared for the Administrator's signature. The Act provides that the notice and publication requirements shall be implemented by December 18.

Steam Electric FOIA Litigation: Next week, we anticipate releasing the first set of documents per the court order. The Agency is currently under a court order to produce all responsive documents to Waterkeeper Alliance by December 31<sup>st</sup>. Yesterday we came to agreement with the plaintiffs to extend our deadline to January 17 in exchange for releasing 250 documents by the end of December.

Lead and Copper Rule Federalism Consultation: Today, EPA sent letters to intergovernmental stakeholders regarding the LCR Federalism consultation. The letter seeks stakeholders' input on EPA's forthcoming proposed regulatory revisions to the LCR and invites stakeholders to a meeting to be held at the EPA Headquarters on January 8, 2018.

Waters of the U.S.: This week, the public comment period closed for the proposed rule to add an applicability date to the 2015 rule. As of Wednesday afternoon, the agencies had received 400 comments to the docket although we anticipate more coming in, and there are approximately 400 mass mailers sent to the Administrator's email. In support of the Step 2 rule, the agencies held a webinar this week for states, tribes, local governments and federal agencies to provide an update on the three rulemakings, feedback we have received through consultations and the outreach listening sessions, and highlight near-term next steps. Over 450 participants logged into the webinar with additional participants joining by phone.

### Upcoming Public Events

None

### Last Week Highlights

Urban Waters Welcomes CDFI to the Partnership: This week, we received notification that the Community Development Financial Institutions Fund (CDFI Fund) of the Department of Treasury is joining the Urban Waters Federal Partnership as the 15<sup>th</sup> Agency. EPA and the CDFI have previously collaborated, along with the Atlanta, GA, Proctor Creek Urban Waters Partnership, on an October, 2016, Resilience Academy in Atlanta. That collaboration has continued since and it is clear that the mission of the CDFI Fund and the Federal Partnership are closely aligned towards community revitalization.